

PART V

PAROLE POLICY AND PROCEDURES

501. Jurisdiction. All cases within the jurisdiction of SECNAV (NC&PB) as defined in paragraph 304 and hereinafter qualified provided they are also in compliance with section 503:

a. Naval Service Offenders. Naval service offenders (and other persons subject to the UCMJ who are tried by Navy and Marine Corps courts-martial) serving confinement in naval brigs as a result of an approved sentence imposed by courts-martial whose sentence includes confinement for 12 months or more and who have served at least one-third but not less than 6 months of their sentence to confinement are eligible for a parole review hearing under this instruction.

b. U.S. Coast Guard Offenders. Under references (m) and (n), NC&PB shall review the cases of U.S. Coast Guard offenders who are eligible for parole in accordance with the same policy and procedures that apply to naval service offenders.

c. Naval Service Offenders Serving Courts-Martial Sentences While in the Custody of Federal (FBOP), State or Local Authorities

(1) Naval service offenders in the custody of the FBOP who are in that custody as a result of transfer from a naval brig for the purpose of serving a sentence to confinement imposed as the result of a court-martial sentence are not within the parole authority of SECNAV and are excluded from the provisions of this instruction as they relate to parole. For the purposes of this instruction, SECNAV's lack of parole authority over naval service offenders in the custody of the FBOP is contingent upon the continued existence of the U.S. Parole Commission.

(2) Upon the expiration of the authority of the U.S. Parole Commission, SECNAV's parole authority over naval service offenders in the custody of the FBOP for the purpose of serving confinement imposed as the result of a court-martial sentence is reinstated, unless otherwise directed, and parole status of the offender will be determined by the NC&PB in accordance with the same parole consideration as naval service offenders serving their sentences to confinement in naval brigs.

(3) Naval service offenders in custody of State or local authorities serving a sentence to confinement imposed as the result of a court-martial may or may not be within the parole authority of SECNAV depending upon the agreement arranged between such authorities and SECNAV upon transfer/detention of the offender. If SECNAV does have parole decision-making authority over the offender, then the provisions of this instruction apply; if SECNAV does not, then the offender is excluded from consideration of parole under the provisions of this instruction. Each case will be determined on an individual case basis.

(4) NC&PB will liaise with FBOP, State or local authorities to ensure known victims are informed about the status of offenders (e.g., date of parole hearing), as required by references, (o), (p), (s), and (v).

d. Naval Service Offenders Confined in Federal, State or Local Confinement Facilities Not Serving Court-Martial Sentence. Naval service offenders in the custody of Federal, State or local authorities not serving sentence to confinement imposed as result of court-martial sentence, but who have a military detainer placed upon them requiring their return to the custody of the naval service upon release from Federal, State or local custody are not within the jurisdiction of the NC&PB until the date of their return to military custody. Upon return to military custody, NC&PB will ensure victims are kept informed (e.g., date of parole hearing), as required by reference (p).

e. The parole review process begins when the offender is eligible for parole and submits a request for parole.

g. Offenders whose convening authority actions or sentences have been set aside by the U.S. Navy-Marine Corps Court of Criminal Appeals, the U.S. Court of Appeals for the Armed Forces, or other appropriate courts of law are not within the parole jurisdiction of the NC&PB regardless of the fact their request for parole was submitted prior to the judicial action. (See paragraph 522d.)

h. Offenders who are granted and accept parole remain under the control of the commanding officer of the naval brig from which they are released or such other facility or command as may be directed by CMC or BUPERS, respectively, until the expiration of the full term of the sentence to confinement without credit for good time or extra good time.

502. Policy and Objectives. Parole is a *modified* form of correctional treatment. It is the principal means of conditional release from the naval brig setting used by the naval service to reintegrate the offender into the community as a law-abiding citizen after the offender has served at least one-third of the approved sentence to confinement. Naval parole functions as a means for individualizing the naval corrections process and offering incentives for the offender to reform, while enabling the naval service, society in general and their authorities to retain custody through supervision. Parole entails supervision of the offender in the community with concern paid not only to the needs of the offender for successful reintegration into the community, but also to the community's needs in terms of protection. Parole particularly recognizes the need for a gradual and more structured return to the community with the opportunity to provide services and to monitor behavior to help ensure successful reintegration. Parole serves as a means of retaining control over an offender beyond the minimum release date for the purpose of treatment and rehabilitation. Parole is a means by which the naval service can ensure an offender receives and

participates or continues to participate in treatment and rehabilitation programs designed to help prevent re-offending. Parole also provides the offender with a daily routine that serves as an example of the law-abiding life style expected by the community/society. Decisions whether to release an offender on parole will be based on an evaluation that the offender has the potential for successfully returning to society and functioning as a responsible, self-reliant and law-abiding citizen. The objectives of parole, which the NC&PB will consider in determining the parole status of each offender eligible for parole are:

- a. A tool for correctional officers within naval brigs to use in motivating offenders toward constructive activities and responsible behavior;
- b. A means of alleviating residual sentencing;
- c. A source of hope for that group of offenders serving extremely long or life sentences;
- d. A post-release supervised assistance for offenders in their efforts to reintegrate themselves into society;
- i. A method of public protection through community surveillance that allows for removal of the parolee from the community should he or she violate the conditions of release; and
- j. A correctional tool used for those offenders where further confinement serves no further useful purpose, but supervised treatment and rehabilitation is required to lessen the potential for further irresponsible/criminal behavior.

503. Criteria for Parole Eligibility. An offender is eligible for release on parole when:

- a. The offender has an approved sentence that includes an unsuspended punitive separation, and
 - (1) the approved, unsuspended sentence or aggregate sentence to confinement is 12 months or more *and less than 30 years* and the offender has served one-third of the sentence to confinement, but not less than 6 months;
 - (2) the *approved, unsuspended* sentence includes confinement for more than 30 years *up to life and the offender has served at least 10 years; or*
 - (3) *the offender has been sentenced to confinement for life and has served at least 20 years of confinement. This applies only to those offenders in which any act with a finding of guilty occurred 30 days after 16 January 2000. For offenders whose offenses with a*

finding of guilty occurred prior to that date, NC&PB consideration shall occur after the offender has served not more than 10 years from the confinement begin date and at least annually thereafter.

(4) An offender sentenced to life without parole is ineligible for parole, unless SECNAV officially commutes the life without parole sentence to a lesser sentence.

(5) An offender confined under a death sentence is ineligible for parole, unless the President officially commutes the death sentence to a lesser sentence.

b. The offender requests parole.

c. With respect to an offender whose approved sentence includes confinement and a fine, and additional confinement for a specified period of time if the fine is not paid, parole eligibility will be based only on the basic term of confinement for the offender who willfully fails to pay the fine.

d. With respect to an offender whose finally approved sentence includes only a fine in addition to the punitive separation, but confinement has been properly ordered because the fine has not been paid, eligibility for parole shall be based on service of at least 6 months of the sentence to confinement and annually thereafter.

e. Offenders reconfined under parole revocation proceedings will not normally be eligible for reparole until 1 year from the date the prior period of parole was terminated by reconfinement by military or civil authorities. The NC&PB may review a reparole request earlier than 1 year on its own motion or in response to a recommendation of the commanding officer.

f. Parole Flow Chart/Matrix. Appendix F provides a visual depiction of the parole eligibility decision matrix. Nothing in Appendix F, however, should be construed as mandating actions or decisions not required within the main text of this instruction.

504. Parole Eligibility Date

a. The parole eligibility date is the date at which the offender has served one-third of the sentence to confinement except:

(1) If the sentence includes less than 18 months but at least 12 months confinement, the parole eligibility date is the date on which the offender has served 6 months of the sentence to confinement.

(2) If the sentence includes 12 months or more of confinement, but less than 30 years, the parole eligibility date is the date on which the offender has served one-third of the term of confinement, but not less than 6 months.

(3) If the sentence includes more than 30 years confinement up to confinement *for life*, the parole eligibility date is the date on which the offender has served 10 years of the sentence to confinement.

(4) *If the sentence is confinement for life, the parole eligibility date is the date on which the offender has served 10 years of the sentence to confinement (if the finding of guilt occurred prior to 16 February 2000).*

(5) *If the sentence is confinement for life, the parole eligibility date is the date on which the offender has served 20 years of the sentence to confinement (if the finding of guilt occurred 30 days after 16 January 2000).*

b. Pretrial confinement and judicially ordered administrative pretrial confinement credits count for determination of an offender's parole eligibility date; periods of officially approved deferment or suspension of a sentence to confinement do not count toward establishment of the offender's parole eligibility date.

c. When exceptional circumstances exist or for other good cause, NC&PB/SECNAV may advance an offender's parole eligibility date, except for those ineligible for parole because they are confined under a death sentence.

d. Good conduct abatement and *earned time* abatement are excluded in computing eligibility for parole.

e. The parole eligibility date for a parolee returned to confinement as a parole violator will be no earlier than 12 months from the date of the parolee's return to military control.

505. Procedures for Determining Status of Parole Requests

a. Prior to becoming eligible for parole, each offender should execute a *DD Form 2715-3* indicating whether parole consideration is or is not desired.

b. If the offender does not request parole and waives clemency review, the commanding officer will forward the Parole Statement without a post-trial progress report to the NC&PB within 30 days of the offender's parole eligibility date.

c. If the offender does not request parole and does not waive clemency review, the absence of a parole request may be noted in the post-trial progress report submitted for the annual clemency review. NC&PB will presume the offender does not request parole whenever it fails to receive a request for parole from the offender. *An entry shall also be placed on the DD Form 2715-3 in block 14 indicating parole is not requested and will be signed by the offender and a witnessing official.*

d. Completion of the Parole Statement is the means by which naval offenders notify the naval brig/NC&PB authorities of their present intent to request parole if or when they are parole eligible. Upon receipt of the Parole Statement that reflects an offender's intent to request parole, the naval brig will ensure the offender understands the requirements of an adequate parole plan.

e. Offenders requesting parole are responsible for their own parole plans. They will be encouraged to take the initiative in developing parole plans which fit their particular circumstances and meet their special needs, particularly plans that address individual and group therapy/counseling programs dealing with offenders whose convictions are the result of violent acts, particularly sex offenses, or substance abuse/dependency. If an element of a parole plan involves some cost, the offender must plan to pay the cost personally or arrange for funding from other sources; the Department of the Navy does not fund parole plans with the exception of VA inpatient alcohol/drug treatment prior to discharge.

f. To the extent practicable, the commanding officer will provide each eligible offender who intends to request parole with the necessary assistance to develop a satisfactory parole plan. Offenders with special problems may need extra assistance to incorporate outpatient therapy, inpatient treatment, halfway house programs, or other unique elements into their parole plans. Also, to the extent practicable, the commanding officer will verify the elements of the offender's parole plan, including the credentials/qualifications of the professional involved in any outpatient/inpatient programs. USPO's will not normally be asked to establish or verify elements of an offender's parole plan prior to approval of parole per this instruction.

506. Parole Requests. Eligible offenders who desire to request parole will submit their requests with adequate parole plans in accordance with the schedule set forth in paragraph 507. The parole request should include a statement from the offender to SECNAV requesting release from confinement under supervision of parole, reasons the request should be granted, and the offender's proposed plan for successful reintegrating into society if released on parole. An adequate parole plan should include, at a minimum, a valid tender of residence and an employment *plan submitted in accordance with paragraphs 506a, 506b, and 506c*. An offender should consult with his/her corrections counselor for suggestions as to other proposals that might be included, such as restitution plans, substance abuse treatment, and individual counseling/therapy that will assist the offender in dealing with problems identified as contributing to the commission of the offense(s) of which he/she was convicted or putting him/her at risk for re-offending.

a. Employment Requirement. Unless waived by NC&PB, the offender must submit satisfactory evidence that he/she will be engaged in a reputable business or occupation upon release from confinement or the

offender may not be released on parole. A valid tender of employment is not necessarily required for the parole package to be forwarded to and considered by the NC&PB. However, except for medically disabled offenders, a valid tender of employment is required to be forwarded via the naval brig chain of command to the President, NC&PB, for consideration and approval prior to the release on parole of the offender from the naval brig.

(1) A responsible prospective employer has executed a tender of employment; or,

(2) A recognized trade union or similar organization has stated that, subsequent to release on parole, the offender will be considered a member of the organization in good standing and that, through the normal functions of the organization, the offender will be afforded employment rights and assistance equal to that furnished other members in good standing.

(3) A reputable offenders' aid, welfare or employment organization has given assurance that it will assist the offender in obtaining employment after release on parole and will assure the parolee's livelihood until permanent employment is obtained.

(a) Because of the heavy burden already carried by offenders' aid organizations and similar agencies, the use of these agencies will be limited to those cases in which such action appears absolutely essential to a suitable release plan.

(b) The United States Employment Service and similar State agencies will not be considered in the same category as offenders' aid associations and other welfare organizations since such Federal and State employment agencies are not always in a position to obtain or offer assurance of employment for individuals prior to release from confinement and prior to a personal interview.

b. Waiver of Employment Requirement. The NC&PB may waive the employment requirement as a prerequisite for parole under any one or more of the following conditions:

(1) On-the-job training or schooling has been approved under the laws authorizing government-sponsored benefits.

(2) The parole plan includes evidence of adequate means of support and sufficient funds to pay living and education expenses and the offender requesting parole has been accepted by an accredited educational institution.

(3) The parole plan involves release on parole via 30 days inpatient treatment at a Veterans Administration Hospital.

(4) The parole plan involves long-term hospitalization, residential treatment or participation in a halfway house type program.

(5) In the judgment of the NC&PB, circumstances warrant release on parole before suitable employment is obtained.

(6) Adequate financial support exists for the offender without the offender being a financial burden on society or the offender's family and the offender will be involved in a worthwhile endeavor approved by the NC&PB.

c. Prior to release on parole, the parole plan must be approved by an officer of the U.S. Probation Service.

507. Schedule for Submission of Parole Requests

a. Offenders who are eligible for, and desire, parole may request parole up to 6 months before their parole eligibility date or any time thereafter.

b. Parole review hearing documents concerning initial parole requests, including endorsements, will be submitted to the NC&PB within 60 days of the submission of the parole request.

c. Parole review documents for second and subsequent NC&PB parole reviews shall be submitted in conjunction with submissions required for annual clemency review. (See paragraph 408.)

d. Submission of an offender's parole request will not be discontinued or delayed because the offender has not developed a satisfactory parole plan. In such instances, the tentative parole plan representing the best efforts of the offender will be used in processing the request for parole.

508. Procedures for Parole Hearing Before Disposition Board. The procedures for the parole hearing are:

a. The offender requesting parole will be given at least 30 days notice of the time, place and purpose of the hearing.

b. The offender requesting parole will have access to the information pertaining to his or her case, information which the disposition board or other agent of the NC&PB will consider. Such access will be conditioned upon the safety of persons whose statements or opinions are under consideration, the necessities of prison security, and the constraints set forth in paragraph 320.

c. The offender requesting parole is not entitled to a lawyer, but may be represented by another offender or member of the staff. The function of the representative is to offer a statement at the conclusion of the hearing and to provide additional information as may

be requested by the presiding officer, hearing officer, or other agent of the NC&PB. The Military Rules of Evidence do not apply; but the presiding officer, the hearing officer, or other agent of the NC&PB shall limit or exclude irrelevant or repetitious statements.

d. Each parole applicant is entitled to a personal hearing before an agent of the NC&PB. The disposition board of the brig or the USDB is authorized to function as that agent or the agent may be specifically designated by the NC&PB.

e. The Disposition Board will make recommendations for the grant or denial of parole and articulate with specificity the reasons for the recommendation.

f. If the Disposition Board recommends the NC&PB grant parole, it should also make recommendations, where appropriate, for any special conditions of parole it believes would assist the offender in his/her reintegration into the community and better ensure the protection of society.

509. Submission and Endorsement of Post-Trial Progress Reports for Parole Review of Offenders in Naval Brigs

a. When an offender confined in a naval brig requests parole, the commanding officer will:

(1) Forward a complete post-trial progress report, as required for clemency review per paragraph 409, attaching thereto the offender's parole statement. Special attention shall be given to the factors set forth in subparagraphs 409c(2), (3) and (6) as they relate to an assessment of the offender's potential for success on parole. Additionally, the psychiatrist, clinical psychologist or clinical social worker will summarize the impact of environmental factors on the offender with special emphasis on the environment to which the offender plans to return. Psychopathology and substance abuse or dependency of the offender (as well as *other individuals* who will be part of the parole plan) must be explored. Suggestions about possible conditions of parole (psychotherapy, etc.) must be made. Addenda, if appropriate, must be made for any requests for parole submitted subsequent to the initial request.

(2) Ensure information concerning an offender's marital status is correct. When divorce, common-law marriage, extramarital relationships, or problem relationships exist, clarify them and evaluate their impact on the parole plan.

(3) Ensure that the individual's citizenship is accurately reflected in the post-trial progress report.

b. When considering an offender for release on parole or for mandatory supervision at MRD, NC&PB shall provide victims with an opportunity to provide information to the Board in advance of its

determination if the victims have previously indicated on DD Form 2704 (or otherwise) an intent to be a participant in the process. Victim impact statements (or other documentation) will be submitted to NC&PB via the confinement facility, which has primary cognizance over matters pertaining to the federal victim and witness assistance program. Requests by victims or witnesses for personal appearances will also be forwarded to NC&PB via the appropriate confinement facility.

510. Schedule for Parole Review Hearing by the NC&PB

a. The NC&PB will consider initial parole requests within 30 days of the parole eligibility date or as soon as practicable after receipt of the request.

b. If an offender's initial request for parole is denied, subsequent requests for parole will be reviewed by the NC&PB within approximately 30 days of the anniversary of the clemency review eligibility date, except upon motion/recommendation of the commanding officer; the President, NC&PB; the NC&PB on its own motion; the Director, NCPB; or SECNAV. Normally, application of the exception should be reserved for instances in which newly discovered substantially relevant information would alter a previous recommendation or when the offender's potential for success on parole has improved significantly and the next regularly scheduled annual clemency review is too late for parole to be a viable option. (See paragraph 403h.)

c. Waiver of clemency review does not preclude submission of a request for parole.

511. NC&PB Action on Parole Requests. Upon receipt of an offender's request for parole and the post-trial progress report, the NC&PB shall review the offender's case file and all information relevant to the parole request, including the recommendations of the Disposition Board, the commanding officer and, as applicable, CMC or BUPERS. After consideration of the case file, the recommendations, policy and objectives for parole set forth within this instruction, the NC&PB will:

a. Grant or deny parole.

b. Recommend, where appropriate, that the Secretary grant or deny parole.

c. Set the date that the offender shall be released on parole.

d. Set the conditions of parole.

e. In unusual circumstances, advance or recommend the advancement of the parole eligibility date of an offender.

f. *Ensure that known and registered victims are notified of pertinent NC&PB parole actions by the victim/witness coordinator at each confinement facility, as required by references (o), (p) and (v).*

512. Factors for Parole Decision-Making. The NC&PB will consider the following non-inclusive factors in making a decision regarding an offender's request for parole:

- a. Nature and circumstances surrounding the offense(s).
- b. The approved sentence in relationship to the maximum imposable sentence and the sentences of other offenders *imposed* as a result of their commission of similar offenses under similar circumstances.
- c. Customary range of confinement before release.
See Appendix C.
- d. Mitigating, extenuating and aggravating circumstances, pretrial and post-trial *matters*, including the current situation and events that have occurred since any previous hearing.
- e. Risk to public safety; i.e., the protection and welfare of society.
- f. Confinement record; e.g., attitude, performance, acceptance of status while in confinement, and motivation.
- g. Psychological profile, including age, education, marital and family status.
- h. Need for special counseling/therapy programs not offered by the naval brigs.
- i. Prior military and civilian history.
- j. Future plans and relevant conditions in the community in which the offender desires to reside on parole.
- k. Impact of the offense upon the victim.
- l. Good order and discipline within the Service.
- m. Offender's current status with law enforcement authorities, such as the presence of a detainer on an offender. The status of the offender as a foreign national does not automatically preclude parole.
- n. Other matters as appropriate.

513. Denial of Requests for Parole

a. Reasons for Denial. The NC&PB, or SECNAV (in those cases in which SECNAV has retained decisional authority), will provide an

offender who has been denied parole written notification of the denial. The NC&PB, or SECNAV, must set forth the reasons for denial of parole if the offender has served confinement that falls within, or more than, the customary release range as determined by the severity offense rating and the salient factor score (Appendix C). Such information shall normally be forwarded to the offender via the commanding officer. Upon receipt of the notification of parole denial, the offender will sign and date the notification of parole denial. Reason(s) for denial of parole include, but are not limited to:

(1) Release on parole at this time would depreciate the seriousness of the offense(s) and promote disrespect for the law.

(2) Due to the seriousness of the confining offense(s) and the short amount of time served on the sentence, a release on parole at this time would be premature.

(3) The retributive and deterrent portion of the sentence to confinement has not yet been served.

(4) Release would jeopardize the public welfare.

(5) Although the offender has reached his/her parole eligibility date, the nature of the confining offense(s) prevents release on parole because release would be premature in view of at least one of the following:

(a) Weapon was involved in the offense(s);

(b) Excessive force was involved in the offense(s);

(c) Lack of remorse;

(d) Denial of guilt if the offender initially pled guilty or confessed;

(e) Serious juvenile record;

(f) Rebellious, hostile, anti-social attitude in civilian or military confinement;

(g) *Refusal to participate in offense related treatment programs.*

(6) Parole would be premature in view of the offender's history of:

(a) Prior offenses (civilian or military);

(b) Crimes related to alcohol abuse;

(c) Crimes related to drug abuse;

(d) Assaultive behavior.

(7) Motivation/attitude towards confinement is poor, marginal or unsatisfactory as indicated by forfeiture of good conduct time; disciplinary reports; disciplinary and adjustment boards; unfavorable reports; lack of program involvement or other identified problems.

(8) Additional institutional treatment is required to enhance the offender's capacity to lead a law-abiding life such as:

(a) Participation in Alcoholics, Narcotics or Emotions Anonymous, et al;

(b) Participation in an alcohol, drug, or sex offender individual/group counseling/therapy program;

(c) Improve work performance;

(d) Other specified program.

(9) Parole plan was incomplete because it lacked assured residence, verified tender of employment (prior to NC&PB Board or prior to release from the confinement facility), individual/group therapy program treatment plan, or other specified requirement.

(10) Current custody level is inappropriate to be considered a good risk for parole because the offender was:

(a) Recently denied elevation of custody level;

(b) Recently elevated but needs further observation/evaluation prior to making an adequate assessment of parole potential.

(11) For decisions exceeding the lower limit of Category 8 severity offense rating by more than 48 months, the pertinent aggravating case factors considered are to be specified in the reasons given (e.g., homicide was premeditated; or committed during the course of another felony; or that extreme cruelty or brutality was demonstrated).

(12) Other specified reasons.

514. Appeal of Denial of Parole Request

a. NC&PB Denial. Offenders denied parole by the NC&PB may file a written appeal of that decision to the Director, NCPB, 720 Kennon Street SE, Room 309, Washington Navy Yard, Washington, DC 20374-5023. The appeal must be submitted to the commanding officer within 30 days of receipt of written notification that parole has been denied. No documents are to be attached to the appeal unless the documents contain new information and materials not already in the possession of

the NC&PB. Commanding officers will promptly endorse (with recommendations) and forward all parole appeals directly to the Director, NCPB. The Director, with the advice of legal counsel, may, after review of the offender's appeal, the case file held by NC&PB, and the NC&PB decision, affirm, modify or reverse the decision or order a rehearing by the NC&PB. *However, parole appeals in cases requiring SECNAV decision per section 308b will be forwarded to SECNAV for final decision.* The Director's decision will be issued within 60 days of receipt of the appeal and is final. At his discretion, the Director may forward an appeal to SECNAV for final decision.

b. SECNAV Denial. Offenders denied parole by SECNAV have no right to appeal. A decision by SECNAV is final.

515. Report of Unsatisfactory Performance/Conduct - Parole Rescission Proceedings.

a. Unsatisfactory Performance/Conduct Defined. Conduct or performance on the part of an offender that is sufficiently serious to be made an adverse matter of the offender's official record is unsatisfactory, and if it becomes known after submission of the post-trial progress report or appeal of a denial of parole, but prior to release on parole or receipt of action on appeal of denial of parole, shall be the cause of action as follows:

(1) Report. The commanding officer will report the nature and circumstances surrounding the unsatisfactory performance/conduct to the President, NC&PB, immediately. The report will include, in as much detail as possible, the facts and circumstances of the offender's unsatisfactory performance/misconduct and a copy of any relevant report of investigation or other documents in support of the allegation of unsatisfactory performance/conduct. The report will include a recommendation for appropriate disposition of the offender's case. The offender shall be notified of the unsatisfactory performance/conduct and the recommendation of the commanding officer.

(2) If parole has not been previously directed, the offender may submit a written statement for forwarding to the President, NC&PB. The statement must be submitted within 5 days of the report of unsatisfactory performance/conduct submitted by the commanding officer.

(3) In reviewing the offender's request for parole, the NC&PB will consider all information relating to the unsatisfactory performance/conduct, including any written statement submitted by the offender, along with all other information in the offender's NC&PB file.

b. Withholding Release on Parole. If parole has been previously directed, but release has not yet been effected, upon receipt of facts sufficient to cause a report of unsatisfactory performance/conduct, the commanding officer shall withhold release pending the initiation of rescission proceedings and a final determination by the NC&PB.

c. Parole Rescission Proceedings. Upon receipt of information of unsatisfactory performance/conduct by the offender and NC&PB's determination that rescission of parole is not probable, NC&PB will direct the offender's release on the effective date of parole. If NC&PB determines that rescission is probable, rescission proceedings will be initiated. At these proceedings the offender has a right to a personal appearance hearing before a single examiner, normally an officer in the grade of 0-4 or higher or a civilian of equivalent grade, appointed by the commanding officer. The rescission proceedings include the following procedures:

(1) The offender will be provided written notice of the alleged unsatisfactory performance/conduct and his/her rights at the rescission proceedings at least 48 hours prior to the hearing.

(2) At the hearing, the offender has the right to present documentary evidence, including affidavits, from witnesses who cannot be present, as well as the right to call and cross-examine witnesses limited by consideration of the safety of persons appearing as witnesses, the necessities of prison security, the fact that such witnesses must be notified and secured by the offender at the offender's own expense, and the constraints of paragraph 320.

(3) The examiner will forward findings of fact, including evidence relied upon, directly to the President, NC&PB. The examiner will include one of the following recommendations: rescind the grant of parole; delay its effective date up to 90 days; or parole on the effective date.

(4) Upon taking final action to approve parole on the effective date, delay the effective date of parole or rescind parole, the NC&PB will inform the offender of the evidence relied upon and the reasons for the action in writing.

d. Parole rescission actions are final and not subject to appeal. The offender will be provided written notice of the final parole rescission action by NC&PB along with the reasons for the rescission.

516. Judicial Action Prior to Release on Parole. If the commanding officer is in receipt of a Certificate of Parole, but prior to releasing the offender on parole, the offender's convening authority action or sentence is set aside by the judicial review process, the commanding officer shall notify NC&PB which will then issue an action staying the offender's release on parole pending notification of the results of the action ordered by the appellate courts.

517. Parole Release Policy and Procedures. Upon receipt of a Certificate of Parole (DD Form 2716-1), the commanding officer will release the offender on the effective date of parole or as soon thereafter as all pre-release conditions have been completed. The conditions that must be completed prior to an offender's release on parole are:

a. Continued validity of the parole plan as approved by the *NC&PB* and the *USPO*. If the approved parole plan has undergone significant alterations prior to the offender's release on parole, the commanding officer shall not release an offender on parole until the *NC&PB* and *USPO* approve the altered parole plan.

b. Explanation of the conditions of parole to the offender by the commanding officer or designee.

c. Execution of a written agreement by the offender accepting and consenting to the specific conditions of parole. All copies of this agreement will be signed by the offender and witnessed by a *non-commissioned/commissioned* officer or civilian employee (GS-6 or above). The parole agreement consists of the parole letter, the Certificate of Parole, including the guidelines and conditions on the reverse side of the Certificate of Parole, and any addenda, if applicable.

d. Delivery to the offender of the accurately completed original Certificate of Parole and parole agreement and appellate self-executing leave orders effective the date of the offender's release from parole due to expiration of the offender's term of confinement, including execution of required signatures and insertion of correct release date. (If an original Certificate of Parole and parole agreement has not been received on the date the offender has been directed to be released on parole, the commanding officer will notify the President, *NC&PB*, who will send a signed facsimile copy of the parole agreement to the commanding officer who will then photocopy the facsimile documents. The photocopies will then be stamped ORIGINAL and parole release procedures continued.) The appellate leave orders will instruct the offender on how to obtain/retain a valid Armed Forces Identification Card (AFIC) if the offender has not been discharged from the naval service; i.e., in receipt of a DD 214.

e. Take front and side view identification photographs of the offender and furnish by a letter of transmittal a copy of the photographs along with signed copies of the Certificate of Parole and parole agreement to the *USPO*, to *BUPERS (PERS-84)* in the case of Navy and Coast Guard parolees, and to CMC (*PSL Corrections*) in the case of Marine Corps parolees.

f. Distribute copies of the Certificate of Parole and, if appropriate, the parole agreement in accordance with instructions appearing at the bottom of the certificate.

g. If appellate review under Article 71©, UCMJ, has been completed, execute and deliver a discharge certificate to the offender at the time of release on parole.

h. If appellate review has not been completed, ensure that the offender possesses an AFIC, completed to show rank and expiration date at least 3 months subsequent to the parole release date. The AFIC

shall be over stamped Military Parole. Identification cards for dependents will bear the same expiration date and notation. Instruct offenders that if the expiration date of their AFIC occurs before appellate review of their case has been completed, they may apply for a new AFIC at the nearest military installation, reserve unit, or recruiter. Replacement AFIC shall bear the same notation as the first and an expiration date 3 months subsequent to the date of issue.

i. Instruct offenders to return all AFICs through the USPO upon completion of appellate review, if appellate review is completed and they are discharged prior to their release from parole due to the expiration of their full term of their sentence to confinement.

j. Coordinate with Navy and Marine Corps Appellate Leave Activity (NAMALA) to ensure preparation of the documents necessary to place the offender on appellate leave if appellate review has not been completed but the full term of the offender's sentence to confinement has been completed, as well as initiate documents necessary to discharge the offender when appellate review is complete. (See paragraph 521.)

(1) *Original service/health records of parolees will be forwarded to and maintained by NAMALA.*

(2) *If appellate review has been completed and the punitive discharge/dismissal executed, original service/health records of parolees will be maintained at NAMALA until full term expiration date, at which time the records will be retired under service directives.*

(3) *If sentence to confinement of the parolee is completed due to the expiration of the full term of the sentence prior to completion of appellate review, NAMALA will maintain original service/health records until completion of appellate review, at which time the records will be retired under service directives.*

(4) *Original service/health records of offenders transferred to the FBOP will be forwarded by naval brigs/USDB to NAMALA and maintained by NAMALA.*

(a) *Duplicate copies of the original service/health records will be provided to the FBOP concurrent with the transfer of the offender from the naval brig to the FBOP.*

k. Ensure that the offender has the address of the uniformed services medical treatment facility closest to the offender's parole destination if the offender has not been discharged or dismissed at the time of release on parole.

l. Ensure that an FBI Form I-12 (Wanted-Flash-Cancellation Notice) is prepared on each offender released on parole or supervised release. This form provides a uniform means of filing requests with the FBI to

ensure notice to the commanding officer of the arrest of an offender on parole by an apprehending officer who files *fingerprints* with the FBI. The form will be annotated to indicate that the commanding officer, the NC&PB and the supervising *USPO* are to be notified of any arrests reported to the FBI. Box 2 "Flash" of the form will be checked and all available information requested on the form for filing a flash notice will be provided. The form will be forwarded directly to the U.S. Department of Justice, Federal Bureau of Investigation (ATTN: Identification Division), Washington, DC 20537.

m. Ensure that the offender is given a medical examination as prescribed by BUMED instructions prior to release on *appellate leave*, parole or *supervised release*. If a separation-type physical has been accomplished previously, the offender's health record will be reviewed by a medical officer assigned or attached to the medical treatment facility rendering primary medical care to the brig and the medical officer will accomplish a physical inspection of the offender to assure the absence of communicable disease. Medical officers will advise the commanding officer, in writing, of their findings and recommendations.

n. Require the submission of a urine sample for each offender prior to release on parole or *supervised release* for analysis in accordance with pertinent Navy or Marine Corps directives, as a service-directed urinalysis. (The commanding officer will determine whether Navy or Marine Corps regulations apply.) The sample will be collected as shortly before the offender departs as practicable and will be analyzed before the end of the third week of parole or *supervised release*. A positive result will be reported to the President, NC&PB, by the most expeditious means available.

o. Furnish the offenders released on parole with transportation to their parole destinations per Joint Travel Regulations.

p. Provide the OEGCMJ with the offender's date of release from confinement on parole, the date parole expires, and the offender's address while on parole.

q. *Ensure* known victims are informed, as required by reference (s).

r. *Supervised Releasees*

(1) *If appellate review has not been completed, the member will be retained on appellate leave under service directives and the original service/health records will be forwarded to NAMALA.*

(2) *The member will be instructed to return all Armed Forces Identification Cards (AFICs) through the USPO upon completion of appellate review and discharge.*

(3) *Once the member's discharge has been executed, original service/health records of supervised releasees will be held at NAMALA*

until Full Term Date (FTD), at which time the records will be retired under service directives.

518. Supervision of Parolees

a. The NC&PB coordinates with appropriate authorities within the U.S. Probation Office, requests its assistance to investigate parole program plans, and oversees the supervision of offenders paroled under the provisions of this instruction.

b. If NC&PB directs the release of an offender on parole under the supervision of a *USPO*, the parolee must meet the conditions of parole set forth in the Certificate of Parole and parole agreement as well as any reasonable requirements directed by the *USPO*.

c. All communications to the parolee will be addressed to or through the *USPO* supervising the parolee, or other designee of the NC&PB.

d. The *USPO* may authorize temporary (up to 20 days) leave for travel outside established parole limits and within the continental United States. The *USPO* may extend or further restrict parole limits as required for the adjustment and supervision of the parolee, but must advise the NC&PB of such action. Requests for travel outside United States territory must be submitted to the NC&PB for decision in advance of the proposed travel date.

519. Conditions of Parole. Before the commanding officer releases an offender on parole granted under the provisions of this instruction, the offender must, in writing, waive all good conduct and extra good time earned through the date of his/her release on parole and agree to abide by the conditions of parole set by the NC&PB. The general conditions of parole are:

a. The parolee shall report directly to the *USPO* whose name appears on the Parole Certificate within 24 hours after arrival at the principal place of parole. If, in any emergency, the parolee is unable to get in touch with the *USPO* or the U.S. Probation Office, the parolee shall communicate with the commanding officer of the naval brig from which he/she was released or the Parole Management Unit, NC&PB (for this purpose, collect calls to NC&PB are authorized).

b. The parolee will remain within the limits indicated by the Certificate of Parole unless permitted to leave the limits by written permission of the *USPO*.

c. The parolee will not change residence or employment without prior permission of the *USPO* or the NC&PB.

d. The parolee will promptly and truthfully answer all inquiries directed by SECNAV, NC&PB, his/her *USPO*, and other military or civilian authorities.

e. The parolee will immediately inform the NC&PB of the refusal or inability of the *USPO* to act as *USPO* and request appointment of another probation officer.

f. The parolee will not associate with persons of bad or questionable reputation, particularly persons with a criminal record, unless permission of the *USPO* is obtained.

g. The parolee will conduct himself/herself honorably, work diligently at a lawful occupation, and support his/her dependents to the best of the parolee's ability.

h. The parolee will live at liberty without violating the law.

i. The parolee will not drink alcoholic beverages to excess; nor will the parolee purchase, possess, use or administer marijuana or narcotic or other habit-forming or dangerous drugs, unless prescribed or advised by a physician; nor will the parolee frequent places where such drugs are illegally sold, dispensed, used or given away.

j. The parolee will perform community service in an hourly amount specified by NC&PB. Performance of community service beyond the hours assigned as a parole condition or early completion of the assigned hours will be considered in a positive manner by the NC&PB during its annual clemency review of the offender's case.

k. The parolee will abide by any other conditions set by the *USPO*, including but not limited to: reporting to state or local authorities as required by State or Federal law, refraining from possessing firearms or other dangerous weapons, etc.

l. The parolee will submit to searches of his/her person, as required by the *USPO*.

m. The parolee will authorize the release of his/her military records by the NC&PB or the *USPO*.

n. The parolee will participate in the required drug-screening program established by the *USPO*.

o. The parolee will abide by any other special conditions contained in addenda to the parole agreement, which may be issued by the NC&PB. Special conditions of parole may include, but are not limited to:

(1) The parolee shall not enter into any agreement to act as an informer or special agent for any law enforcement officer.

(2) The parolee found alcohol or drug dependent by NC&PB shall participate in an alcohol or drug treatment program which may include scheduled and unscheduled testing and examination to determine if the parolee has reverted to alcohol or drug usage.

(3) The parolee convicted of sex offenses or serious violent offenses, or parolees with serious mental or emotional problems will participate in inpatient or outpatient mental health programs as directed by NC&PB or the USPO.

(4) The parolee shall reside, and participate, in a halfway house program, as instructed, until discharged by the USPO or the NC&PB.

(5) The parolee shall establish, when appropriate, a payment plan by which fines are paid and restitution accomplished.

520. Clemency Consideration of Parolees

a. Parolees are eligible for annual clemency review. The NC&PB will obtain a report of the parolee's conduct from the USPO prior to conducting the annual clemency review. The provisions of this instruction regarding annual clemency review apply to the annual clemency review of parolee cases. Clemency requests from parolees are not required; however, a parolee may submit any matters pertinent to a clemency review.

b. The NC&PB will inform the parolee, in writing, via the USPO, of the results of the clemency review, indicating the new termination date of parole supervision in the event the sentence to confinement is reduced. The NC&PB will also inform the commanding officer and the OEGCMJ of the results of the annual clemency review.

521. Change in Status. *This paragraph applies to cases in which a punitive discharge or dismissal was adjudged and parole or supervised release commenced prior to completion of appellate review.*

a. If the sentence to confinement of the parolee expires prior to completion of appellate review, the commanding officer responsible for the administration of the parolee's service records will:

(1) Issue the appellate leave papers prepared at the time of release on parole and direct the member to report to the nearest military installation, reserve unit, or recruiter to surrender the AFIC annotated "Military Parole" and obtain an *appropriate* replacement card that denotes "Appellate Leave" status.

(2) Order the individual to an appropriate unit, if required. The individual may report in an appellate leave status provided such leave is granted under procedures established by the CMC or BUPERS, as appropriate.

(3) Furnish the individual with instructions and any other information deemed pertinent to establish clearly the individual's status and obligations.

(4) Advise the individual of the address of the commanding officer of the unit to which the individual is assigned.

b. If appellate review is completed and the parolee's or supervised releasee's discharge is ordered executed before the term of confinement has expired, the commanding officer responsible for administration of the parolee's or supervised releasee's service records will:

(1) Confirm that the most recent medical examination satisfied the requirements prescribed by BUMED to discharge the parolee or supervised releasee or obtain a current medical examination as prescribed by BUMED instructions.

(2) Process the separation documents, including a Certificate of Release or Discharge from Active Duty (DD Form 214).

(3) Furnish the individual with instructions regarding the change in status and require return of the AFIC marked "Military Parole" or "Appellate Leave" which was furnished for use pending completion of appellate review.

522. Termination of Parole

a. By Expiration of the Term of Confinement (Completion of Sentence). Parolees complete parole and are released from supervision at the expiration of the full term or aggregate term of their sentence to confinement.

b. By Suspension. Suspension of parole interrupts the sentence, unless the parolee is reconfined. A parolee who is not confined during a suspension of parole is not entitled to confinement credit for the period of the suspension; however, the NC&PB may authorize full or partial credit retroactively when it either revokes parole or rescinds the suspension and reinstates parole. Suspension of parole for a parolee who is permitted to remain at large shall not relieve the parolee of the requirements to abide by the conditions of parole.

c. By Revocation. The NC&PB may revoke parole if the parolee's behavior warrants return to confinement and the necessary due process rights are afforded to the parolee during the revocation process. (See Part VI.) In appropriate circumstances and upon the request of the parolee, the NC&PB may defer executing the revocation for a period of time normally not exceeding 1 year. If, during the period of this deferment, the parolee commits any further violations of a condition of parole, the NC&PB may cancel the deferment, execute the revocation, and reconfine the parolee upon notice to the parolee and without further proceedings. Parolees who have not been reconfined pending parole revocation proceedings will, within 24 hours of receiving notification of the revocation of their parole from their USPO, return to the naval brig from which paroled or to another naval brig designated by the NC&PB. Transportation costs will be borne by the parolee. Parolees who fail to report within 24 hours become subject to apprehension as escapees and prosecution under the UCMJ.

d. By Judicial Action. Because parole is a conditional release from an approved sentence to confinement, the setting aside of a convening authority action or the sentence under judicial review nullifies the existence of the approved sentence to confinement and thus nullifies the basis of parole. In such a circumstance, the OEGCMJ or the NC&PB will notify the offender in writing through the offender's *USPO* that his/her parole is being held in abeyance and that orders will be forthcoming from proper authorities. Transportation costs incident to the parolee's return to duty will be borne by the United States. Parolees who fail to follow the orders of those proper authorities are subject to apprehension and prosecution under the UCMJ.